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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,088	03/18/2000	Christopher J. Horvath	10147-22 (MPI2000-131)	5277

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PHILADELPHIA, PA 19103-7013

EXAMINER

ROARK, JESSICA H

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 05/05/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/531,088

Applicant(s)

HORVATH, CHRISTOPHER J.

Examiner

Jessica H. Roark

Art Unit

1644

--The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 4/18/03. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-33,47 and 48.

Claim(s) withdrawn from consideration: _____

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8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____



Continuation of 3. Applicant's reply has overcome the following rejection(s): Applicant's proposed amendment to clearly indicate that the antibody recited is the antibody deposited with the ATCC as HB-10164, as supported on page 49 at note (b), has overcome the rejection in Paper No. 15 of claims 3-4 under 35 U.S.C. 112, second paragraph.

Continuation of 5. does NOT place the application in condition for allowance because: the proposed amendment does not alter the rejections of record under 35 USC 103(a).

Applicant again argues in the Request filed 4/18/03 with respect to the rejections of claims 1-33 and 47-48 under 35 USC 103(a) (see sections 13 and 14 of Paper No. 15) that, absent the guidance provided in the specification, the ordinary artisan would not have been motivated to select an antibody specific for CD18 with a reasonable expectation that an anti-CD18 specific antibody would function in the instantly recited methods of inhibiting stenosis.

Applicant again points to the teachings of Guzman et al. (Coronary Artery Disease 1995; 6:693-701, IDS) that anti-CD18 antibodies did not work in methods of inhibiting restenotic injury. Applicant argues that the Examiner in Paper No. 15 discounted the teachings of Guzman et al. in the discussion of Applicant's previous arguments.

The Examiner's position with respect to the teachings of Guzman et al. has been set forth previously in Paper No. 15. Contrary to Applicant's assertions, the Examiner has not discounted the teachings of Guzman et al., but has previously provided reasons in Paper No. 15 as to why the ordinary artisan, in view of the teachings of the references of record and even after considering the teachings of Guzman et al., would nevertheless have been motivated to combine the teachings of the references cited in the rejections of record and would have had a reasonable expectation of success with respect to the instantly claimed method.

The rejection of record is therefore maintained for the reasons of record in Paper No. 15.